

Appl. No. : 10/759,785
Filed : January 16, 2004

REMARKS

Claims 3, 4, 7-9, 14-15, and 19-30 have been cancelled. Claims 1, 5, 6, 11, and 16 have been amended. Claims 1-2, 5-6, 10-13, and 16-18 are now pending in this application. Claims 11-13 and 16-18 are withdrawn from consideration. Support for the amendments is found in the existing claims and the specification as discussed below. Accordingly, the amendments do not constitute the addition of new matter. Applicant respectfully requests the entry of the amendments and reconsideration of the application in view of the amendments and the following remarks.

Rejoinder

With this amendment, Applicant has cancelled non-elected claims 14-15 and 19-30. Claims 11 and 16 have been amended to be commensurate in scope with claims 1 and 5 which are believed to be allowable for the reasons presented below. Accordingly, rejoinder and allowance of claims 11-13 and 16-18 is respectfully requested.

Claims 4 and 8 free of prior art

Applicant gratefully acknowledges the Examiner's indication that claims 4 and 8 are free of the art in the Office Action at page 6, last line. With this amendment, all claims include the limitations of either claims 4 or 8. Reconsideration is requested.

Rejection under 35 U.S.C. § 112, second paragraph

Claims 5-7 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The species of claim 7 have been incorporated into claim 5 as separately listed species. Claim 7 has been cancelled. Accordingly, the species of claim 7 are no longer indicated as "cellulose or cellulose derivative".

Claim 6 has been amended to include generic descriptions for the products represented by trademark names Avicel® and Sigmacell®.

In view of Applicants' amendments, reconsideration and withdrawal of the above grounds of rejection is respectfully requested.

Rejection under 35 U.S.C. § 112, first paragraph - enablement

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Claims 4 and 9 are rejected under 35 U.S.C. § 112, first paragraph as containing subject matter which is not described in the specification in such a way so as to enable one skilled in the art to which it pertains to make and/or use the invention.

The limitations of claims 4 and 9 have been incorporated into independent claims 1 and 5, respectively. Accordingly, this ground of rejection now applies to all pending claims.

Applicant submits herewith a Declaration by Assignee to comply with the criteria set forth in 37 C.F.R. § 1.801-1.809.

In view of Applicant's Declaration submitted herewith, withdrawal of the above ground of rejection is respectfully requested.

Rejections under 35 U.S.C. § 102(b)

Claims 1-10 are rejected under 35 U.S.C. § 102 (b) as anticipated by Barron, et al. (Bioprocess Engineering, vol. 17 (1997), pages 383-386 or Nilsson, et al. (Biotechnology Letters, vol. 17, pages 985-988 (1995).

Claims 1-3, 5-8 and 10 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Magritis, et al. (Appl. Environ Microbiol. 1983 February; 45 (2): 723-725).

Claims 1-3, 5-8 and 10 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Apajalahti, et al. (US Patent No. 6,271,007).

Claims 1-3, 5-8, and 10 are rejected under 35 U.S.C. § 102 (b) as being anticipated by Morikawa, et al. (Biotechnology and Bioengineering vol. 37, pages 509-513 (1985)).

All of the above grounds of rejection are believed to be overcome in view of Applicant's amendment, incorporating the limitations of claims 4 and 9 (and 8) into claims 1 and 5, in view of the Examiner's indication that claims 4 and 8 are free of the art on page 6, last line of the Office Action. While claims 4, 8, and 9 were included in the rejection based upon Barron, et al. or Nilsson, et al., Applicant respectfully submits that neither Barron, et al. nor Nilsson, et al. teach the specific deposited strain as now claimed.

In view of Applicant's amendments, reconsideration and withdrawal of the above grounds of rejection is respectfully requested.

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CONCLUSION

In view of Applicants' amendments to the claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated:

June 7, 2007

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